

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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**HOUSE BILL 1212
PROPOSED COMMITTEE SUBSTITUTE H1212-CSRWx-89 [v.3]**

Short Title: Burlington Charter/Revision and Consolidation.

(Local)

Sponsors:

Referred to:

May 28, 2014

A BILL TO BE ENTITLED
AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF
BURLINGTON.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Burlington is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF BURLINGTON.

"CHAPTER I. ORGANIZATION AND POWERS.

"SUBCHAPTER A. INCORPORATION, CORPORATE POWERS AND THEIR EXERCISE.

"Section 1.01. Incorporation and Corporate Powers. The City of Burlington shall continue to be a body politic and corporate by the name of "City of Burlington." Under that name the City shall continue to be vested with all property and rights of property that now belong to the municipal corporation; shall have perpetual succession; may have a common seal and alter and renew the same at pleasure; may sue and be sued; may contract and be contracted with; may acquire and hold all such property, real and personal, as may be devised, bequeathed, sold, or in any manner conveyed or dedicated to or otherwise acquired by it and, from time to time, may hold or invest, sell, or dispose of the same; and shall have and may exercise in conformity with this Charter all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever.

"Section 1.02. Exercise of Power. All powers, functions, rights, privileges, and immunities of the City, its officers, agencies, or employees shall be carried into execution as provided by this Charter. If this Charter makes no provision, such powers, functions, rights, privileges, and immunities shall be carried into execution as provided by ordinance or resolution of the City Council and as provided by the pertinent general laws of North Carolina.

"SUBCHAPTER B. CITY BOUNDARIES.

"Section 1.21. Corporate Limits. The corporate limits of the City shall be those existing at the time of ratification of this Charter, as set forth on the official map of the City and as they may be altered from time to time in accordance with law. An official map of the City, showing the current boundaries, shall be maintained permanently in the Office of the City Clerk and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map shall be made, and copies shall be filed in the Office of the Secretary of State, the Alamance County Register of Deeds, the Guilford County Register of Deeds, and the appropriate boards of elections.

"SUBCHAPTER C. CHAPTER AMENDMENTS.

"Section 1.41. Incorporation of Amendments.



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(a) As soon as possible after the adjournment of each General Assembly, the City Attorney shall present to the City Council copies of all local laws relating to the property, affairs, and government of the City of Burlington that were enacted by the General Assembly, whether or not in terms amending this Charter, which the City Attorney recommends be incorporated into this Charter. Such recommendations may include suggestions for renumbering or rearranging the provisions of the laws, for providing titles and catch lines, and for such other changes in arrangement and form that do not change the law as may be thought necessary to implement the purposes of this section.

(b) After considering the recommendations of the City Attorney, the City Council may provide for the incorporation of such laws into this Charter.

(c) The purpose of this section is to enable the City to maintain at all times a current and accurate City Charter, organized in clear and orderly fashion and embracing all local laws relating to the property, affairs, and government of the City.

"CHAPTER II. COMPOSITION OF CITY COUNCIL; ELECTIONS.

"SUBCHAPTER A. COMPOSITION AND METHOD OF ELECTION OF CITY COUNCIL.

"Section 2.01. Composition, election, and terms of City Council.

(a) The City Council shall consist of four members and a Mayor who shall be elected at large by and from the qualified voters of the City. The Mayor shall be elected for a term of two years and the members of City Council for a term of four years.

(b) The terms of all members shall begin at the date and hour prescribed by Section 3.03 of this Charter for the taking of the oath of office, but members shall serve until their successors are elected and qualified. In the event that it is not possible otherwise to determine which of two or more persons should be considered a holdover Council member or holdover Council members, a decision shall be made by lot between the outgoing Council members who are willing to serve, the lots to be cast under the supervision of the remaining qualified Council members.

"SUBCHAPTER B. CONDUCT OF CITY ELECTIONS.

"Section 2.21. Regular City elections. Regular City elections shall be held in each odd-numbered year in accordance with the uniform election laws of North Carolina.

"Section 2.22. Method and determination of results. The election shall be by the nonpartisan primary method as provided by G.S. 163-294.

"Section 2.23. Special Elections. The procedure for calling and conducting special elections shall be as provided by G.S. 163-287.

"CHAPTER III. ORGANIZATION AND POWERS OF CITY COUNCIL.

"SUBCHAPTER A. CITY COUNCIL: QUALIFICATIONS; VACANCIES; COMPENSATION; OATHS OF OFFICE.

"Section 3.01. Qualifications of Council members and Mayor; vacancies; removal.

(a) No person shall be eligible to be nominated or elected to the City Council, nor to serve thereon, unless the person is a qualified voter and a resident of the City. No person shall be eligible to be nominated or elected to the office of Mayor or to serve as such unless he or she is a qualified voter and resident of the City.

(b) In the case of a vacancy in the office of Mayor, the remaining members of the City Council shall select from their own number the Mayor's successor for the unexpired term.

(c) If there is a vacancy in the office of Council member after election or qualification, or if any Council member is unable to discharge the duties of office, the City Council shall choose some person for the unexpired term, or during the member's disability, as the case may be, to act as Council member. Council members so selected shall have all the powers and duties of regularly elected Council members.

"Section 3.02. Compensation of Mayor, Mayor Pro Tem, and Council members.

(a) The Mayor, Mayor Pro Tem, and each Council member shall receive as compensation for service to the City an amount fixed by the City Council in the annual budget.

(b) In addition to the compensation provided for by subsection (a) of this section, the Mayor, Mayor Pro Tem, and Councilmembers may be reimbursed for actual and necessary travel expenses or other expenses incurred by them in the performance of their official duties.

"Section 3.03. Oaths of office. All newly elected or appointed Council members and the Mayor before entering upon their duties shall take and subscribe before the City Clerk an oath to perform faithfully the duties of their offices and the oaths of office required by general law. Elected Council members and the Mayor shall meet at the City Hall for the purpose of taking such oath at the organizational meeting following the date of their election. A member appointed to fill a vacancy shall take the oath at the next City Council meeting following his or her appointment. The Mayor appointed to fill a vacancy shall take the oath at the next City Council meeting following his or her appointment. Any member who is not present at the time and place provided for by this section may take the oaths at any time thereafter. In the absence of the City Clerk, the oaths may be administered by any other person authorized by law to administer oaths of office.

"SUBCHAPTER B. CITY COUNCIL: ORGANIZATION AND PROCEDURE.

"Section 3.21. Organizational meeting; Mayor Pro Tem. The organizational meeting of each City Council shall be held in accordance with G.S. 160A-68. The City Council shall elect, by the choice of its members, a Mayor Pro Tem who shall hold office as such for a term of two years and until a successor is selected and qualified. The organization of the City Council shall take place notwithstanding the absence, death, refusal to serve, or nonelection of one or more members, provided that at least three of the persons entitled to be members are present and, if necessary, take oath.

"Section 3.22. Regular and special meetings; emergency meetings. Except where otherwise specifically provided by this Charter, the City Council shall have authority to determine the time and place of City Council meetings within or outside Alamance County, to make such provisions as it may deem wise relative to regular, special, emergency, adjourned, and continued meetings, to adopt rules of procedure, and generally to regulate the time, place, manner, and method of the exercise of its powers.

"Section 3.23. Quorum; votes.

(a) A majority of the members of the City Council shall constitute a quorum to do business, but a lesser number may adjourn from time to time and compel the attendance of absent members by ordering them taken into custody.

(b) No member shall be excused from voting except upon matters involving the consideration of the member's own official conduct or involving his or her financial interest. In all other cases, a failure to vote by a member who is present or who, having been present, has withdrawn from the meeting without being excused, shall be deemed an affirmative vote and shall be so recorded. A member who has withdrawn from a meeting without being excused shall be counted as present for purposes of determining whether or not a quorum is present.

"SUBCHAPTER C. CITY COUNCIL: POWERS AND DUTIES.

"Section 3.41. General powers of City Council.

(a) The government of the City and the general management of the City shall be vested in the City Council, except that the City Manager shall have the powers hereinafter specified and provided by general law.

(b) In addition to other powers conferred upon it by law, the City Council may adopt and provide for the execution of such ordinances, rules, and regulations, not inconsistent with this Charter, as may be necessary or appropriate to protect health, life, or property, or to preserve or promote the comfort, convenience, security, good order, better government, or general welfare of the City or its inhabitants; may enforce the same by imposing penalties on such as violate them; and may compel the performance of the duties imposed upon others by suitable penalties.

"Section 3.42. Residential development projects in municipal service districts. The City Council may, in accordance with G.S. 158-7.1, et seq., make appropriations and authorize economic incentives for the purposes of aiding and encouraging residential development projects within the city in a municipal service district established pursuant to Article 23 of Chapter 160A of the General Statutes that, in the discretion of the City Council, is likely to have a significant effect on the economic revitalization of that district. In connection with the foregoing, the City Council may make loans and grants from public funds for revitalization projects that will have a significant revitalization effect on the city.

"SUBCHAPTER D. CITY COUNCIL: ORDINANCE PROCEDURE.

"Section 3.61. Applicable general laws. Except as otherwise herein provided, the adoption, amendment, repeal, pleading, and proving of ordinances shall be governed by provisions of general law applying to cities.

"Section 3.62. Adoption of ordinances and resolutions. The affirmative vote of a majority of the members of the City Council shall be necessary to adopt any ordinance or resolution. Notwithstanding the provisions of G.S. 160A-75, an ordinance may be finally passed on the date on which it was introduced by vote of a majority of the members of the Council.

"SUBCHAPTER E. MAYOR.

"Section 3.81. Powers and duties of Mayor.

(a) The powers and duties of the Mayor shall be as conferred upon him or her by this Charter or general law, together with any other powers and duties conferred by the City Council pursuant to law.

(b) The Mayor shall preside at all meetings of the City Council and shall have the right to vote upon all questions but shall have no additional vote in case of a tie and no veto. The Mayor shall be considered a member of the City Council for all purposes. The Mayor shall be recognized as the official head of the City by the courts for the purpose of serving civil process and by the public for all ceremonial purposes. The Mayor shall have the power to administer oaths.

"Section 3.82. Mayor Pro Tem. During the disability of the Mayor or the Mayor's absence from the City, the functions of the office of Mayor shall devolve upon the Mayor Pro Tem. The Mayor Pro Tem shall preside at all City Council meetings in the absence of the Mayor.

"CHAPTER IV. ADMINISTRATIVE OFFICES; POWERS AND PROCEDURE.

"SUBCHAPTER A. CREATION AND FUNCTIONS OF DEPARTMENTS, OFFICES, AND OTHER AGENCIES IN GENERAL.

"Section 4.01. Offices, positions, departments, and other agencies continued by Charter or created by Council.

(a) The following administrative offices and positions, are hereby provided for by this Charter: City Manager, City Clerk, Finance Director, City Attorney, Chief of Police, and Fire Chief.

(b) The City Council may create, change, abolish, and consolidate boards and commissions whose members it appoints.

(c) The City Manager may create new positions or departments or assign additional functions to offices, positions, or departments as provided by general law.

"SUBCHAPTER B. CITY MANAGER.

"Section 4.21. City Manager: Appointment, qualifications, term, compensation, and oath.

(a) The City Council shall appoint a City Manager who shall be the administrative head of the City government and shall be responsible for the administration of all City departments. The Manager shall be appointed with regard to merit only and need not be a resident of the City.

(b) The City Manager shall hold office at the pleasure of the City Council and shall receive such compensation as the City Council may fix by ordinance.

"Section 4.22. City Manager: Powers and duties. The City Manager shall (i) be the administrative head of the City government and, as such, shall be responsible for the administration of all City offices, positions, and departments created by or under this Charter and general law; (ii) ensure that within the jurisdiction of the City, the laws of the State and the ordinances, resolutions, and regulations of the City Council are faithfully executed; (iii) attend all meetings of the Council and recommend for adoption such measures as he or she shall deem expedient; and (iv) make reports to the Council, from time to time, upon the affairs of the City and keep the City Council fully advised of the City's financial condition and its future financial needs.

"SUBCHAPTER C. PERSONNEL.

"ARTICLE 1. APPOINTMENTS AND REMOVALS.

"Section 4.61. Appointment, removal, and supervision of department heads and employees by City Manager.

(a) The City Manager, except as otherwise provided in this Charter, shall be responsible for the appointment, suspension, and removal of heads of City departments and City employees.

(b) Except where expressly authorized by this Charter, neither the City Council nor any of its members shall take any part in the appointment or removal of department heads, officers, or employees who are subject to appointment by the City Manager. Except for the purpose of inquiry or investigation, the City Council and its members shall deal with the department heads, officers, and employees through the City Manager, and neither the City Council nor any of its members shall give orders to any subordinate of the City Manager, either publicly or privately.

(c) Subject to the provisions of this Charter, the department heads, officers, and employees subject to appointment by the City Manager shall perform such duties as may be required of them by the Manager under general regulations of the City Council.

"Section 4.62. Appointment and removal of members of boards and commissions. Except as otherwise provided by this Charter, and notwithstanding any other provision of law, the City Council shall appoint and may suspend and remove all members of boards and commissions subject to appointment by the Council.

"ARTICLE 2. COMPENSATION; PERSONNEL POLICIES.

"Section 4.71. Classification and compensation of employees and officers. The City Manager shall be responsible for the preparation of position classifications and pay plans that shall be submitted to the City Council for approval. The plans may apply to any or all employees of the City and any of its agencies and offices. Salaries of employees shall be fixed by the City Manager within salary ranges approved by the City Council.

"Section 4.72. Personnel policies. The City Council may adopt ordinances and policies, consistent with applicable laws (i) concerning annual leave, sick leave, hours of employment, and holidays and (ii) concerning other personnel policies, including policies relating to working conditions. The ordinances may apply to any or all employees of the City and any of its agencies and offices.

"SUBCHAPTER D. FINANCES AND FISCAL MATTERS.

"ARTICLE 1. TAXATION.

"Section 4.111. Levy, collection, and payment of property taxes.

(a) Except as otherwise herein provided, property taxes shall be imposed and collected in the manner provided by general law.

(b) Property taxes shall become due and payable on the date provided by general law. Interest shall be charged for late payment, and discounts may be allowed for prepayment of taxes in the amounts and during the periods covered by general law.

"ARTICLE 2. BORROWING.

"Section 4.121. Borrowing authority and procedures. The City shall be governed by applicable general laws concerning borrowing authority and procedures.

"ARTICLE 3. BUDGETING, ACCOUNTING, FISCAL AFFAIRS.

"Section 4.131. Application of Local Government Budget and Fiscal Control Act. Subject to the provisions of this Charter, all of the provisions of the Local Government Budget and Fiscal Control Act, Article 3 of Chapter 159 of the General Statutes, apply to the City.

"Section 4.132. Reserve funds. The City may establish reserve funds as provided by general law.

"Section 4.133. Investment of surplus funds. The City may invest surplus funds as provided by general law.

"SUBCHAPTER E. PROCUREMENT AND PROPERTY MANAGEMENT.

"ARTICLE 1. CONTRACTING PROCEDURES.

"Section 4.151. Contracting procedures; authentication of documents.

(a) In all respects not provided for by this Charter, formal requirements concerning the making and execution of contracts by the City shall be governed by general law.

"ARTICLE 2. LEASING, DISPOSITION, AND SALE OF PROPERTY PROVISIONS.

"Section 4.161. Lease of real property in municipal service districts.

(a) Notwithstanding the provisions of G.S. 160A-272, the City Council may, in its discretion, lease city-owned property in its municipal service districts established pursuant to Article 23 of Chapter 160A of the General Statutes for such consideration and upon such terms and conditions as the City Council may determine, including terms of more than 10 years in accordance with the procedures of this subsection. Before leasing its interest in property owned in its municipal service districts, the city shall hold a public hearing. The city shall publish notice of the public hearing at least 10 days before the hearing is held; the notice shall describe the property being leased, the terms and conditions of the lease, the proposed consideration and the City Council's intention to approve the lease.

(b) The provisions of this section shall be construed in addition to all other provisions of law authorizing or prescribing the method of leasing property owned by the city.

"Section 4.162. **Conveyances with covenants of warranty.**

(a) The City Council is hereby authorized to execute and deliver conveyances to any property, whether acquired by tax or assessment foreclosure or otherwise, with full covenants of warranty whenever in its discretion it is to the best interest of the City to convey by warranty deed.

(b) Members of the City Council are hereby relieved of any personal or individual liability by reason of the execution of any such conveyances with covenants of warranty.

"Section 4.163. **Quitclaims of City property.** The City may quitclaim any rights it may have in property not needed for public purposes upon report by the City Manager and adoption of a resolution by the City Council, both finding that the property is not needed for public purposes and that the interest of the City has no readily ascertainable monetary value.

"Section 4.164. **Sale of personal property of less than two thousand five hundred dollars (\$2,500) value.** Notwithstanding any other provision of law, the City Council may sell or exchange without advertisement and at either public or private sale any personal property not exceeding two thousand five hundred dollars (\$2,500) in value at the time of sale.

"SUBCHAPTER F. OTHER DEPARTMENTS, OFFICES, AND AGENCIES.

"ARTICLE 1. CITY ATTORNEY.

"Section 4.171. City Attorney. As provided by general law, the City Council shall appoint a City Attorney to serve at its pleasure and to be its legal advisor.

"ARTICLE 2. CITY CLERK AND FINANCE DIRECTOR.

"Section 4.181. City Clerk and Finance Director.

(a) The City Manager shall appoint a City Clerk and finance director.

(b) The City Clerk shall do all of the following:

(1) Keep a journal of City Council proceedings.

(2) Record in a book kept for the purpose all ordinances and resolutions.

(3) Be the custodian of all City records.

(4) Perform such other duties as prescribed by law or this Charter or required by the City Council that are not inconsistent with general law.

(c) The Finance Director shall perform the duties of finance officer as set forth in the Local Government Budget and Fiscal Control Act, Article 3 of Chapter 159 of the General Statutes, or as may be set forth elsewhere in general law, and as required by the City Manager or City Council that are not inconsistent with general law.

"ARTICLE 3. POLICE.

"Section 4.191. Powers and duties of Chief of Police and members of police force. The Chief of Police, each member of the police force, and any other designated officers shall have the powers and duties as provided in Article 13 of Chapter 160A of the General Statutes and otherwise provided for by general law.

"CHAPTER V. REGULATORY AND PLANNING FUNCTIONS.

"SUBCHAPTER A. MOTOR VEHICLES AND TRAFFIC.

"Section 5.01. Location of traffic control devices.

(a) The Traffic Commission shall recommend to the City Council the location or removal of any and all official traffic control devices in the City.

(1) If the recommendation is for installation of such a device at a particular location, the recommendation shall state why its installation is necessary in order to control traffic congestion in the interest of public safety.

(2) If the device is to be moved or removed from a particular location, the recommendation shall state why the device is no longer required at such location for the control of traffic congestion in the interest of public safety.

An "official traffic control device," as used in this section, is a sign, signal, marking, or device, including a parking meter, that is intended to regulate vehicular or pedestrian traffic.

(b) Upon adoption by the City Council of any recommendation from the Traffic Commission pursuant to subsection (a) of this section, the action shall be recorded in the minutes of the Council. The installation, moving, or removal of the official traffic control device shall then be carried out by City staff.

(c) For purposes of enforcement, the installation, moving, or removing of a traffic control device pursuant to subsection (a) of this section shall take effect immediately when the device is installed, moved, or removed. The location of a traffic control device may be proved by the testimony of the official who installed or moved it.

(d) The installation, moving, or removing of a traffic control device pursuant to the provisions of this section shall have the force and effect of an ordinance, and the failure to obey any such device shall be punishable as a violation of an ordinance.

(e) Nothing in G.S. 20-175 shall prohibit the City Council from adopting ordinances placing additional restrictions or prohibitions on persons standing on any street, highway, or right-of-way, excluding sidewalks, while soliciting or attempting to solicit any employment, business, or contributions from the driver or occupants of any motor vehicle. The City may not adopt ordinances placing restrictions or prohibitions on the activities of licensees, employees, or contractors of the North Carolina Department of Transportation.

"Section 5.02. Obstruction of alleys. If, in the opinion of the City Council, a fire hazard is created by the obstruction of private alleys, the City Council may adopt regulations governing the obstruction of private alleys, either by reason of the parking of motor vehicles or otherwise.

"Section 5.03. Regulation of ambulances and wreckers. The City Council may establish regulations governing the operation of ambulances, wreckers, and other motor vehicles used in connection with emergencies, disasters, or accidents.

"SUBCHAPTER B. OCCUPATIONAL AND BUSINESS LICENSING AND REGULATION.

"Section 5.21. Liability insurance or surety bond to be furnished by demolition contractors.

(a) The City Council may require every demolition contractor to furnish and keep in effect for each building demolition project in the City he or she may undertake, or as a condition of engaging in the business of building demolition in the City, a policy of insurance or surety bond with sureties, licensed to do business in North Carolina, whose solvency shall at all times be subject to the approval of the Council. The policy or bond shall be in such amount or amounts as may be fixed by the Council and shall be conditioned upon the contractor responding in damages for any liability incurred on account of any injury to persons or damages to property resulting from the prosecution of the demolition project. The policy or bond, if required, shall be filed with the City Council as a condition precedent to conducting any building demolition project in the City.

(b) As used in this section, the term "demolition contractor" means a person, firm, or corporation who undertakes on his or her account or for another, whether for an agreed price or for cost plus a fixed fee or otherwise, to raze, dismantle, or demolish a building.

"SUBCHAPTER C. PLANNING ZONING; BUILDING REGULATIONS AND RELATED MEASURES.

"ARTICLE 1. SUBDIVISION CONTROLS.

"Section 5.41. Authority to require installation of certain improvements prior to approval of plats.

(a) In connection with subdivision or platting controls, the City Council may require the improvement and grading of streets and the construction and installation of street pavements, curbs, gutters, sidewalks, and water, sewer, surface water drainage, and other utility mains as a condition precedent to the approval of a plat. The requirements may provide for tentative approval of the plat previous to the improvement and installation, but any tentative approval shall not be entered on the plat. The requirements may provide that, in lieu of completion of the work and installations prior to final approval of the plat, the City Council may accept a bond from a company licensed to do business in North Carolina, in an amount and with surety and condition satisfactory to it, providing for and securing to the City the actual construction and installation of the improvements and utilities within a period specified by the City Council and expressed in the bond. The City is empowered to enforce the bond by all appropriate legal and equitable remedies. Requirements adopted under this subsection may be adopted throughout the area over which the City is authorized by law to exercise platting or subdivision controls.

(b) The requirements may provide, in lieu of the completion prior to the final approval of the plat of the work and installation on land within the corporate limits of the City, for an assessment under this Charter, Article 10 of Chapter 160A of the General Statutes, or other general or local law whereby the City may do the work and make the installations at the cost to the owners of the property within the subdivision using any of the bases and methods prescribed by law.

"Section 5.42. Authority to require reservation of recreation areas and school sites.

In connection with subdivision or platting controls, the City Council may, as provided by G.S. 160A-372, require the reservation of recreation areas and school sites as a condition precedent to the approval of a plat. The reservation shall be for a period of no longer than two years, subject to future acquisition by purchase or condemnation by a governmental unit or agency.

"Section 5.43. Territorial extent of powers. The authority conferred by Section 5.41 and Section 5.42 of this Charter may be exercised throughout the area within which the City Council is now or hereafter empowered to regulate the platting and recording of any subdivision of land.

"ARTICLE 2. BUILDING REGULATIONS.

"Section 5.51. Power to destroy property to stop fires. The Chief of the Fire Department may order the blowing up, tearing down, or other destruction of any building when it is deemed necessary to stop the progress of a fire. No person shall be held liable, civilly or criminally, for

1 acting in obedience to orders thus given, nor shall the Fire Chief be held liable, civilly or
2 criminally, for the giving of such orders or for damages to property ordered destroyed.

3 "ARTICLE 2A. HOUSING COMMISSION.

4 "Section 5.52. Housing commission. The City Council may provide for the creation and
5 organization of a housing commission to which appeals may be taken from the decision of the
6 building inspector upon any provision of the Housing Code of the City.

7 "ARTICLE 3. STREET IMPROVEMENTS.

8 "Section 5.61. Comprehensive transportation plan. Transportation planning, including street
9 improvements for the City, shall be carried out by and through the Burlington-Graham
10 Metropolitan Planning Organization (MPO) established pursuant to 23 U.S.C. § 23. The City
11 Council shall adopt the portion of the comprehensive transportation plan pertaining to the City
12 and its planning jurisdiction and may, from time to time, propose revisions for consideration by
13 the MPO.

14 "Section 5.62. Subdivision Streets. Dedication, extension, and construction of new streets in
15 subdivisions shall be carried out as provided in the City's subdivision ordinance.

16 "Section 5.63. Transportation Corridor Plan. In the event of a particular roadway
17 improvement project, the City Council shall adopt a transportation corridor official map
18 pursuant to Article 2E of Chapter 136 of the General Statutes. A certified copy of the map shall
19 be filed with the Alamance County Register of Deeds. Advance acquisition of property,
20 issuance of building permits, and approval of subdivisions within the officially designated
21 corridor shall be as provided for in Article 2E of Chapter 136 of the General Statutes.

22 "SUBCHAPTER D. MAINTENANCE OF RAILROAD CROSSINGS.

23 "Section 5.81. Railroad crossings. As authorized by general law, the City shall have the
24 power to require any railroad or railway company to keep in good repair any grade crossings
25 over its tracks, and to construct and keep in repair from curb to curb railroad bridges and
26 crossings over all ditches running under any grade crossings so that the tracks, turnouts, and
27 switches shall interfere, as little as may be reasonable, with travel over the streets at the grade
28 crossing, and to regulate the grade of all of the streets of the City as they may hereafter be or
29 are now established, except as herein otherwise provided.

30 "CHAPTER VI. CITY SERVICES AND FACILITIES.

31 "SUBCHAPTER A. ESTABLISHMENT AND MAINTENANCE OF SERVICES AND
32 FACILITIES.

33 "ARTICLE 1. LOCAL DEVELOPMENT.

34 "Section 6.01. Authority to levy tax for local development. Nothing in this Charter shall
35 affect the power of the City to levy taxes for local development purposes under Article 1 of
36 Chapter 158 of the General Statutes.

37 "SUBCHAPTER B. EMINENT DOMAIN.

38 "Section 6.41. Authority to acquire needed property. The City shall have authority to
39 purchase or acquire by condemnation a property right for any lawful public use or purpose. The
40 procedure in all such condemnation proceedings shall conform to the procedure provided in
41 Article 3 of Chapter 40A of the General Statutes.

42 "SUBCHAPTER C. ASSESSMENTS FOR LOCAL IMPROVEMENTS.

43 "Section 6.61. - Authority to make local improvements. The City Council shall have
44 authority to make the local improvements as described in this charter in and to assess the cost
45 against benefited property. The procedure set forth in this subchapter shall not be exclusive, but
46 shall be in addition to any other procedure provided by law.

47 "Section 6.62. - Separate proceedings not required. One or more local improvements may
48 be made in a single proceeding, and assessments for one or more local improvements may be
49 combined.

50 Section 6.63. - Definitions. Certain words and phrases will be used with the following
51 meanings with reference to local improvements, unless some other meaning is plainly intended.

1 (a) A "street" is the entire width between property lines of every way or place, of
2 whatever nature, when any part thereof is dedicated or open to the use of the public as a matter
3 of right for the purpose of vehicular or pedestrian traffic.

4 (b) A "sidewalk" is the part of a street that is used, or to be used, for pedestrian traffic.

5 (c) A "storm sewer" is a conduit above or below ground for the passage of storm water,
6 and may include a pumping station and outlet where deemed necessary, and may also include
7 the building of culverts over or the enclosing of streams where needed to carry off storm water.

8 (d) A "sanitary sewer" is an underground conduit for the passage of sewage and may
9 include a pumping station and outlet.

10 (e) A "water main" is a pipe for the passage of city water for public hydrants and
11 private and public use and consumption.

12 (f) A "lateral" is a pipe connecting a storm or sanitary sewer or water main with the line
13 of adjacent property or the curblin, being either a sewer lateral or water lateral, but does not
14 include a building connection, that is, a pipe extending from a lateral at the property line or
15 curblin to the house or plumbing fixture to be served.

16 (g) A "roadway" is the part of a street that is used, or to be used, for vehicular traffic.

17 (h) The word "sewer" includes both sanitary and storm sewers unless a contrary
18 intention is shown.

19 "Section 6.64. - Improvements described. The Council shall have authority to make the
20 following local improvements:

21 (a) Roadway paving improvements, that include the grading, regrading, paving,
22 repaving and widening of roadways, or the improvement thereof with any treatment designed to
23 provide an improved wearing surface, with necessary drainage, sewer inlets, manholes and
24 catch basins and the construction or reconstruction of retaining walls made necessary by any
25 change of grade incident to such improvement, and in any case where the improvement is made
26 upon petition if the petition so requests, or in any case, where the improvement is made without
27 petition if the Council so directs, it may include the construction or reconstruction of curbs,
28 gutters, drains and sidewalks.

29 (b) Water main improvements, that include the laying or construction of water mains,
30 the relaying where necessary of parts of paved roadways and sidewalks torn up or damaged by
31 the laying or construction of such mains, and, in any case where the improvement is made upon
32 petition and the petition so requests, or in any case where the improvement is made without
33 petition and the Council so directs, the laying of water laterals.

34 (c) Sanitary sewer improvements, that include the laying or construction of sanitary
35 sewers, the relaying, where necessary, of parts of roadways and sidewalks torn up or damaged
36 by the laying or construction of such sewers, and in any case where the improvement is made
37 upon petition and the petition so requests, or in any case where the improvement is made
38 without petition and the City Council so directs, the laying of sanitary sewer laterals.

39 (d) Storm sewer improvements, that include the laying or construction of storm sewers,
40 the relaying, where necessary, of parts of paved roadways and sidewalks torn up or damaged by
41 the laying or construction of such sewers, and in any case where the improvement is made upon
42 petition and the petition so requests, or in any case where the improvement is made without
43 petition and the Council so directs, the laying of storm sewer laterals.

44 (e) Sidewalk improvements, that include the grading, regrading, construction,
45 reconstruction and repair of paved or other improved sidewalks, the construction or
46 reconstruction of retaining walls made necessary by and incident to such improvements, and, in
47 any case where the improvement is made upon petition, if the petition so requests, or in any
48 case where the improvement is made without petition if the Council so directs, it may include
49 the construction or reconstruction of curbs, gutters and drains, and the construction or
50 reconstruction of all such portions of driveways as in the judgment of the Council ought to be
51 laid in the street area.

(f) Grassplot improvements, that include the grading and planting of grassplots in a street.

"Section 6.65. – Bases for making assessments.

Assessments may be made on any of the bases authorized in G.S. 160A-218 or any statute amending or replacing it.

"Section. 6.66. – Optional cost sharing.

Without regard to the limitations stated in Article 10, Chapter 160A of the General Statutes or in any other provision of law, the Council acting for the city may assume such proportion of the total cost of local improvements (including street improvements, sidewalk improvements, curb and gutter, and water and sewer improvements, or any one or more of them) as the Council may from time to time deem appropriate.

"Section 6.67. - Water and sewer mains between streets.

Whenever the Council finds it in the public interest, and it will be more economical and the interest of the property owners will best be served by constructing either water or sanitary sewer mains, or both, between streets rather than in a street, the petition may provide therefor, or in the event the water and sanitary sewer mains may be constructed in a street without petition, they may be constructed between streets without petition. The cost of the construction of such water or sewer mains and laterals shall be assessed according to the street frontage in the same manner and to the same extent that it would be assessed if the improvements were constructed in a street; provided that the city shall provide the rights-of-way for construction and maintenance of such mains at its own expense without assessing the cost thereof.

"Section 6.68. - Inclusion of more than one improvement in single proceeding.

(a) Any proceeding may include one or more local improvements on one or more streets, but all improvements included in one procedure shall be practically uniform in cost and kind. A petition may include improvements on only one side of a street.

(b) The petition may provide for making any one or more local improvements in or on a street or streets and for the assessment of the cost thereof, except the city's portion, wholly against the property abutting one side of such street or streets or otherwise against such abutting property as may be designated in the petition in any of the following cases:

(1) In any case where there is park land or unimproved land abutting one side, or a part of one side, of a street.

(2) Where the land abutting one side, or a part of one side of a street, is of such a nature or is devoted to such a purpose that a special assessment against it cannot be made, or, if made would probably exceed the value of the land assessed.

(3) Where the owners of all the property to be assessed agree thereto.

"Section 6.69. - The petition; certificate of sufficiency.

(a) Except as otherwise provided in subsection (b) of this section, the petition for any local improvements shall designate by a general description the improvements proposed, and shall request that such proportion of the cost of each of such improvements as may be specified in the petition be specially assessed against the property abutting on the street or streets or part thereof in which or on which such improvements are proposed to be made. The petition shall be filed with the city clerk.

(b) (1) In any case where the improvement is to be made on one side of a street only, the petition shall request that the assessment be made only against the property abutting that side of the street whereon the improvement is to be made. (2) In any case where it is proposed to assess the cost of any local improvement covering the entire width of a street against the land abutting one side of the street only or against any lands less than all of those abutting the improved portion of the street, such petition shall designate the lands to be assessed.

(c) Except as otherwise provided in subsection (d) of this section, the petition shall be signed by at least a majority in number of the owners, which majority must own at least a majority of all the lineal feet of frontage of the lands abutting the street or streets or part of a street or streets proposed to be improved, excluding street intersections.

(d) (1) A petition for the making of local improvements on one side of a street only need be signed only by a majority in number of the owners of land abutting the side of the street whereon such improvement is to be made, which majority must own at least a majority of all the lineal feet of frontage of the lands abutting such side of the street, excluding street intersections. (2) Any petition for the making of any improvements covering the entire width of a street and the assessment of the cost thereof against the land abutting one side of the street only or against any lands less than all of those abutting the improved portion of the street, shall be signed by all of the owners of the lands thus proposed to be assessed.

(e) (1) For the purpose of the petition, all the owners of undivided interests in any land shall be deemed and treated as one person and such land shall be sufficiently signed for when the petition is signed by the owner or owners of a majority in amount of such undivided interest. (2) For the purpose of this section the word "owner" shall be considered to include the owners of any life estate, of an estate by entirety, or of the estate of inheritance, and shall not include mortgages, trustees of a naked trust, trustees under deeds of trust to secure the payment of money, lienholders, or persons having inchoate rights of curtesy or dower.

(f) Upon the filing of such petition, the city clerk shall investigate the sufficiency of the petition, and if it is found to be sufficient, he shall certify the same to the Council.

"Section 6.70. - When petition unnecessary.

(a) No petition shall be necessary for the making of any local improvements for which the city bears the entire cost without assessment.

(b) If, in the judgment of the City Council, the abutting property to be assessed will be benefited in an amount at least equal to the assessment, no petition for local improvement shall be necessary in the cases set forth in subsections (c) through (g) of this section.

(c) Street paving improvements—When, in the judgment of the Council:

(1) Any street or part of a street is unsafe; or

(2) The improvement of a street or part of a street not more than three blocks in length is necessary to connect streets already paved; or

(3) The improvement of a street or part of a street is necessary to connect a paved street, or portion thereof, within the city with a paved highway beyond the city limits; or

(4) The improvement of a street or part of a street is necessary to provide a paved approach to a railroad or street grade separation or any bridge; or

(5) Any street or part of a street should be widened.

(d) Water main improvements—When, in the judgment of the Council, any street or part of a street, or any property within the city, is without a public water supply and can be served, and water service should be provided in the public interest.

(e) Sanitary sewer improvements—When, in the judgment of the Council, any street or part of a street, or any property within the city, is without a public sanitary sewer system and can be served, and sanitary sewer service should be provided in the public interest.

(f) Storm sewer improvements—When, in the judgment of the Council, any street or part of a street, or any property within the city, is without storm sewer facilities, and can be served, and storm sewers should be provided in the public interest.

(g) Sidewalk improvements—When, in the judgment of the Council, any street or part of a street is without sidewalks and sidewalks should be provided in the public interest, or that any existing sidewalk is unsafe and should be repaired.

"Section 6.71. - Notice of hearing.

1 (a) Upon the presentation of a sufficient petition for local improvements, or when it is
2 proposed to make without petition any improvements authorized to be made without petition, a
3 notice shall be prepared by the city attorney that shall contain substantially the following:

- 4 (1) That a sufficient petition has been filed for the making of the improvements,
5 or, if it is proposed to make the improvements without petition, a statement
6 of the reasons proposed for the making thereof;
7 (2) A brief description of the proposed improvements;
8 (3) The proportion of the cost of the improvements to be assessed and the terms
9 of payment;
10 (4) A statement of the time and place of a public hearing on the proposed
11 improvements;
12 (5) A statement that all objections to the legality of the making of the proposed
13 improvements shall be made in writing, signed in person or by attorney, and
14 filed with the city clerk at or before the time of the hearing, and that any
15 objections not so made will be waived.

16 (b) The notice shall be published one time in a newspaper published in the city that is
17 qualified to carry legal notices, or, if there be no such newspaper, the city clerk shall cause it to
18 be posted in three public places in the city, the date of publication or posting to be not less than
19 five days prior to the date fixed for the hearing. A copy of the notice shall be served upon the
20 owners of the lands subject to assessment for such improvements by Certified or Registered
21 mail. The certificate of the person designated to mail the notices that such notices were mailed
22 shall be conclusive in the absence of fraud. The mailing of notices shall be completed not less
23 than five days prior to the date fixed for the hearing. The word "owners," as used herein, has
24 the same meaning as in Section 6.69.

25 "Section 6.72. - Public hearing.

26 At the time for the public hearing, or at some subsequent time to which such hearing shall
27 be adjourned, the Council shall consider objections to the legality of the improvements made in
28 compliance with paragraph (5) of subsection (a) of the preceding section, together with
29 objections to the policy or expediency of the making of the improvements, and the Council
30 shall thereafter determine whether it will order the making of the improvements. Any
31 objections to the legality of the making of the improvements not made in writing, signed in
32 person or by attorney, and filed with the city clerk at or before the time or adjourned time of the
33 hearing shall be considered as waived; and if any such objection shall be made and shall not be
34 sustained by the Council, the adoption of the resolution ordering the making of the
35 improvements shall be the final adjudication of the issues presented, unless within ten days
36 after the adoption of the resolution proper steps shall be taken in a court of competent
37 jurisdiction to secure relief.

38 Section 6.73. - Resolution ordering improvements; publication.

39 After the public hearing, if the Council determines to make the improvements proposed, it
40 shall adopt a resolution that shall contain:

- 41 (1) If the improvements are to be made by petition, a finding by the Council as
42 to the sufficiency of the petition, which finding shall be final and conclusive.
43 (2) If the improvements are to be made without petition, a finding by the
44 Council of such facts as are required in order to authorize improvements
45 without petition.
46 (3) A general description of the improvements to be made and the designation of
47 the street or streets or parts thereof where the work is to be done.
48 (4) If the improvement directed to be made is the paving of a roadway or part
49 thereof wherein a railroad company has tracks, a direction that said company
50 pave that part of the street occupied by its tracks, the rails of the tracks, and
51 18 inches in width outside such tracks, with such material and in such

manner as the governing body may prescribe, and that unless such paving be completed on or before a day specified in the resolution, the governing body will cause the same to be done. Where such railroad company shall occupy such street or streets under a franchise or contract that otherwise provides, such franchise or contract shall not be affected by this section, except insofar as may be consistent with the provisions of such franchise or contract.

(5) If the improvement directed to be made includes the construction of water mains or sewers, and in order to provide the mains or sewers in the street or streets to be improved it is necessary to extend them beyond the limits of the street or streets, the resolution shall contain a provision for the necessary extension of such mains or sewers and a further provision that the cost of such extension shall eventually be assessed against the lots or parcels of land abutting the street or streets in which such extensions are made but that assessments shall not be made until such time as the Council shall thereafter determine by appropriate resolution.

(6) If the improvement directed to be made is the paving of a roadway or part thereof, or the construction of sidewalks, the resolution may, but need not, contain a direction that the owner of each lot abutting the part of the street to be improved, connect his lot by means of laterals with water mains, gas or sewer pipes, or any one or more thereof, located in the street adjacent to his premises in accordance with the requirements governing the laying of laterals, and that unless the owners cause laterals to be laid on or before a date specified in the resolution, the date to be not less than thirty days after the date of the resolution, the Council will cause the same to be laid.

(7) A designation of the proportion of the cost of the improvements to be assessed against abutting property, and of the number of equal annual installments in which assessments may be paid.

"Section 6.74. - Details of construction; contracts for construction.

The Council shall have power to determine the character and type of construction and of material to be used and to determine any other details of plan or construction necessary to be determined in making any local improvements and to determine whether any work to be done by the city shall be done by contract or by the city. The Council shall have power also, unless otherwise limited, to determine the number of water, sewer and gas laterals that shall be laid to any lot on any street to be improved. If the work or any part thereof is to be done by contract, the Council may let all of the work in one contract, or it may divide it into several contracts, and may let contracts separately.

"Section 6.75. - Determination as to cost of improvements.

Upon completion of the improvements, the Council shall ascertain the total cost. In addition to other items of cost, there may be included therein the cost of all necessary legal services, the amount of interest paid during construction, the amount of damages paid or to be paid for injury to property by reason of any change of grade or drainage, including court costs and other expenses incidental to the determination of damages, and the cost of retaining walls, sidewalks or fences built or altered in lieu of cash payment for property damage, including the cost of moving or altering any building. The determination of the Council as to the total cost of any improvement shall be conclusive.

"Section 6.76. - Preliminary assessment.

(a) Having determined the total cost, the Council shall make a preliminary assessment. The preliminary assessment shall be advisory only and shall be subject to modification. Except as otherwise provided in subsection (b), the preliminary assessment shall be as follows:

(1) Roadway paving. The total cost of any roadway paving improvement, excluding the cost incurred at street intersections, shall be specially assessed

1 against the lots and parcels of land abutting the street containing the roadway
2 paved, according to the frontages thereon, by an equal rate per foot of
3 frontage, except that, where the petition so requested, the cost shall be
4 assessed against the lands on one side of the street only or against such lands
5 as were designated in the petition.

6 (2) Water mains and sewers. The cost of not exceeding an eight-inch water or
7 sanitary sewer main and of not exceeding a thirty-inch storm sewer main
8 shall be assessed against the abutting property. Such cost shall be assessed
9 against the lots and parcels of land according to their respective frontages
10 thereon by an equal rate per foot of such frontage or upon such other basis as
11 the Council may determine. If a water or sanitary sewer main in excess of
12 eight inches in size or a storm sewer in excess of thirty inches in size is laid,
13 the excess cost shall be borne by the city. If the resolution ordered the
14 construction of any pumping station, outfall, septic tank or disposal plant, no
15 part of the cost of the same shall be specially assessed. Nothing contained
16 herein shall be construed to limit the power of the Council to contract with
17 any property owner or owners for the construction of any pumping station,
18 outfall, septic tank or disposal plant or for the construction of water mains or
19 storm or sanitary sewers and for the assessment of the cost thereof according
20 to the terms of such contract. The entire cost of each water and sewer lateral
21 shall be specially charged against the particular lot or parcel of land for or in
22 connection with which it was constructed, except that the assessments shall
23 be calculated as if the lateral were laid from the center of the street. The cost
24 of installing storm sewers may, however, be assessed as part of the cost of
25 roadway paving.

26 (3) Sidewalks. The total cost of constructing or reconstructing sidewalks shall
27 be assessed against the lots and parcels of land abutting that side of the street
28 upon which the improvement is made according to their respective frontages
29 thereon by an equal rate per foot of such frontage, the lots within a block
30 being deemed to abut upon a sidewalk although the latter extends beyond the
31 lot to the curbline of an intersecting street. The total cost of constructing
32 portions of driveways within the street area shall be assessed against the lots
33 for which they are constructed.

34 (4) Grassplots. The entire cost of grading or otherwise improving or of planting
35 the grassplots in any street or part thereof shall be assessed against the lots
36 and parcels of land abutting the street or part thereof where or whereon the
37 improvements are made by an equal rate per foot front of such frontage;
38 provided, that this subsection shall be construed to mean that when a
39 grassplot in any street is graded or planted or otherwise improved, the cost
40 thereof shall be assessed against all of the property abutting the street within
41 the block where such grassplot is located.

42 (b) If the petition (or the resolution in those cases where the improvement was ordered
43 made without petition) specified that there should be specially assessed against the abutting
44 property a smaller proportion of the cost of any improvement other than that set for [forth] in
45 paragraph (2) of subsection (a) of this section, there shall be assessed against abutting property
46 only the proportion of the cost as was specified in the petition or in said resolution. No
47 restriction or denial of access to an abutting street shall affect the levy or collection of any
48 assessment for local improvements.

49 (c) The cost of paving, water, sewer, and sidewalk improvements upon, in, or to any
50 portion of a right-of-way or any property owned by the State of North Carolina, any agency or

subdivision thereof, shall be assessed against the right-of-way or property and shall be paid by the State, its agency or subdivision.

"Section 6.77. - Corner lot exemptions.

The Council shall have authority to determine the amount and applicability of assessment exemptions for corner lots, and to distinguish between different classifications of property uses. The exemptions for water mains and sanitary sewers shall not exceed one hundred and fifty feet for residential uses and one hundred feet for business uses. If the corner formed by two intersecting streets is rounded into a curve or is foreshortened for the purpose of providing sight distance or for any other purpose of construction, the frontage for assessment purposes shall be calculated to the midpoint of the curve or foreshortened corner.

"Section 6.78. - Preliminary assessment roll.

The Council shall cause to be prepared a preliminary assessment roll, on which shall be entered a brief description of each lot or parcel of land assessed, the amount assessed against each lot, the name or names of the owner or owners of each lot, as far as the same can be ascertained; provided, that a map of the improvements on which is shown the frontage and location of each affected lot, together with the amount assessed against each lot and the name or names of the owner or owners thereof, as far as the same can be ascertained, shall be a sufficient assessment roll. If the resolution directed the making of more than one improvement, a single preliminary assessment roll for all the improvements authorized by such resolution shall be sufficient, but the cost of each improvement to each lot affected shall be shown separately. After the preliminary assessment roll has been completed, it shall be filed in the office of the city clerk, and there shall be published in some newspaper published in the city that is qualified to carry legal notices, or if there be no such newspaper, the city clerk shall cause to be posted in three public places in the city, a notice of the completion of the assessment roll, setting forth a description in general terms of the improvements, the amount of each assessment, and stating the time fixed for the meeting of the Council for the hearing of objections to the special assessments, such meeting to be not earlier than five days after the publication or from the date of posting of said notice. Any number of assessment rolls may be included in one notice.

"Section 6.79. - Hearing; revision; confirmation; lien.

At the time appointed for that purpose or at some other time to which it may adjourn, the Council shall hear objections to the preliminary assessment roll of all persons interested who may appear and offer proof in relation thereto. Then or thereafter, the Council shall either annul or sustain or modify in whole or in part the assessment, either by confirming the preliminary assessment against any or all lots or parcels described thereon, or by cancelling, increasing or reducing the same, according to the special benefits that the Council decides each of the lots or parcels has received or will receive on account of the improvements, except that assessments against railroads because of contract or franchise obligations shall be in accordance with such obligations. If any property is omitted from the preliminary roll, the Council may place it on the roll and levy the proper assessment. The Council may thereupon confirm the assessment roll, and the assessments so confirmed shall be in proportion to the special benefits, except in the case of franchise obligations of railroads. Whenever the governing body shall confirm assessments for local improvements, the city clerk shall enter on the Council minutes and on the assessment roll the date, hour, and minute of confirmation, and from the time of confirmation the assessments shall be a lien on the property assessed of the same nature and to the same extent as county and city taxes and shall be superior to all other liens and encumbrances. After the assessment roll is confirmed a copy of the same shall be delivered to the city tax collector.

"Section 6.80. - Appeal to superior court.

If the owner of, or any person interested in, any lot or parcel of land against which an assessment is made is dissatisfied with the amount of the assessment, he may, within ten days

1 after the confirmation of the assessment roll, give written notice to the Council that he takes an
2 appeal to the Superior Court of Alamance County, in which case he shall within twenty days
3 after the confirmation of the assessment roll serve on the mayor or city clerk a statement of
4 facts upon which he bases his appeal. The appeal shall be tried as other actions at law. The
5 remedy herein provided for any person dissatisfied with the amount of the assessment against
6 any property of which he is the owner or in which he is interested shall be exclusive.

7 "Section 6.81. - Power to correct error in assessment.

8 If it shall appear after confirmation of any assessment roll that an error has been made, the
9 city clerk shall cause to be published one time in some newspaper published in the city, or if
10 there be no such newspaper, the city clerk shall cause to be posted at three public places in the
11 city a notice referring to the assessment roll in which the error was made, naming the owner or
12 owners of the lot or parcel of land affected by the error, if the same can be ascertained, and
13 naming the time and place fixed for a hearing by the Council for the correction of the error,
14 such meeting not to be earlier than ten days from the publication or from the date of the posting
15 of the notice. At the time fixed in the notice or at some subsequent time to which the Council
16 may adjourn, the Council, after giving the owner or owners of the property affected and other
17 persons interested therein an opportunity to be heard, may proceed to correct the error, and the
18 assessment then made shall have the same force and effect as if it had originally been properly
19 made. No notice and hearing shall be necessary if the correction does not increase an
20 assessment against any property not owned by the city, or if all of the property owners affected
21 by the correction waive notice in writing.

22 "Section 6.82. - Reassessment.

23 The Council shall have the power, when in its judgment there is any irregularity, omission,
24 error or lack of jurisdiction in any of the proceedings relating thereto, to set aside the whole of
25 the local assessment made by it, and thereupon to make a reassessment. In such case there shall
26 be included, as a part of the cost of the improvements involved, all interest paid or accrued on
27 notes or certificates of indebtedness, or bonds issued by the city to pay the expenses of such
28 improvement. The proceeding shall, as far as practicable, be in all respects as in the case of
29 original assessments, and the reassessment shall have the same force as if it had originally been
30 properly made.

31 "Section 6.83. - Publication of notice of confirmation of assessment roll.

32 Within ten days from the confirmation of the assessment roll, the city clerk shall give notice
33 to all owners of lands to be assessed that the assessment roll has been confirmed, and that
34 assessments may be paid at any time before the expiration of thirty days from the date of such
35 notice, without interest from the date of the confirmation of the assessment roll, but that if such
36 assessment is not paid in full within said time, all installments thereof shall bear interest at the
37 rate of eight percent% (8%) per annum from the date of confirmation of the assessment roll.
38 Such notice by the city clerk shall be given by regular mail. The certificate of the clerk that
39 such notices have been mailed shall be conclusive in the absence of fraud. (Ord. No. 80-22(a),
40 § 1, 5-6-80)

41 "Section 6.84. - Payment of assessments in cash or by installments.

42 The property owner hereinbefore mentioned in this Act shall have the option and privilege
43 of paying for the improvements hereinbefore provided for in cash as provided in the preceding
44 section or in not less than five or more than ten equal annual installments as may have been
45 determined in the original resolution ordering the improvement or improvements. If paid in
46 installments, such installments shall bear interest at the rate of eight percent (8%) per annum
47 from the date of confirmation of the assessment roll. If any assessment is not paid in cash, the
48 first installment thereof with interest thereon shall become due and payable thirty days after the
49 notice required by the preceding section and one subsequent installment and interest thereon
50 shall be due and payable on the same day of the same month in each successive year until said
51 assessment is paid in full; provided, however, that if the governing body shall so direct such

installments shall become due and payable on the same date when property taxes of the city are due and payable. If any installment with interest thereon is not paid when due, it shall be subject to the same penalties as are now prescribed by law for unpaid taxes, in addition to the interest herein provided for. The whole assessment may be paid at any time by the payment of the full amount due with accrued interest. (Ord. No. 80-22(a), § 1, 5-6-80)

"Section 6.85. - Enforcement of payment of assessments.

Upon the failure of any property owner to pay any installment when due and payable, all of the installments remaining unpaid shall immediately become due and payable, and property and rights-of-way may be sold by the city under the same rules, regulations, rights of redemption and savings as are now prescribed by law for the sale of land for unpaid taxes. Unpaid assessments, interest, and penalties owed by railroad companies and the State of North Carolina, its agencies or subdivisions, may be collected by writs of mandamus issued by the superior Court of Alamance County. Collection of assessments with interest and penalties may also be made by the city by proceedings to foreclose the lien of assessments as a lien for mortgages is or may be foreclosed under the laws of the state, and it shall be lawful to join in any bill for foreclosure any one or more lots or parcels of land, by whomsoever owned, if assessed for an improvement ordered by the same resolution, after default in the payment of any installment. The payment of all installments due, together with interest and penalties due thereon and costs, before the lot or parcel of land, against which the same is a lien, is sold or said lien is foreclosed shall bar the right of the city to sell land or to foreclose the lien by reason of default.

"Section 6.86. - Assessment of cost of water main and sewer extensions.

If the resolution ordering the making of any improvement or improvements included a provision for any necessary extension of a water main or sewer or sewers beyond the limit of a street or streets, at such time after the completion of said extension or extensions as, in the judgment of the Council, circumstances justify the assessment of the cost thereof, the Council shall cause a preliminary assessment to be made and the procedure thereafter to be followed with respect to such assessment and the force and effect thereof shall be as already prescribed for other assessments.

"Section 6.87. - Apportionment of assessments.

In any case where one or more special assessments have been made, and property has been, or is about to be, subdivided, and it is desirable that the assessments be apportioned among the subdivisions of such property, the Council may, upon application by the owner or owners, apportion the assessments among the subdivisions. Thereafter, each subdivision shall be relieved of any part of the original assessment except the part apportioned to the subdivision, and the part of the original assessment apportioned to any subdivision shall be of the same force and effect as the original assessment.

"Section 6.88. - Change of ownership.

No change of ownership of any property or interest therein after the passage of a resolution ordering the making of a local improvement shall affect subsequent proceedings, and the improvement may be completed and assessment made therefor as if there had been no change in ownership.

"Section 6.89. - Lands subject to assessment.

No lands in the city, including railroad company lands and rights-of-way and property of the State of North Carolina, its agencies or subdivisions shall be exempt from special assessments except lands belonging to the United States that are exempt under the provisions of Federal Statutes, and the Council and the officers, trustees or boards of all incorporated or unincorporated bodies in whom is vested the right to hold and dispose of real property shall have the right by authority duly given to sign the petition for any local improvements.

"Section 6.90. - Proceedings in rem.

1 All proceedings for special assessments shall be proceedings in rem, and no mistake or
2 omission as to the name of any owner or person interested in any lot or parcel of land affected
3 thereby shall be regarded as a substantial mistake or omission.

4 "Section 6.91. - Grassplot, sidewalk, and driveway maintenance.

5 It shall be the responsibility of the abutting property owner to maintain any grassplot or
6 driveway between the property line and the curb of a paved street and to maintain in good
7 passable condition any sidewalk immediately fronting his lot.

8 "Section 6.92. - Council may hold in abeyance certain water and sewer assessments.

9 (a) The City Council may provide by resolution that assessments levied against abutting
10 lots or parcels of land for water main improvements or sanitary sewer improvements, when in
11 its opinion such improvements may not presently be used by the owner or owners of the
12 abutting lots or parcels of land, may be held in abeyance without the payment of any interest
13 thereon until such time as the Council shall determine that any such assessments shall be paid
14 in accordance with the terms set out in the confirming resolution. A part of the assessments
15 levied for the improvements herein set out on a street or streets, or portion thereof, may be held
16 in abeyance as herein provided without holding all of said assessments in abeyance.

17 (b) All statutes of limitations are hereby suspended during the time that any assessment
18 is held in abeyance without the payment of interest, as provided in subsection (a) of this
19 section. Such time shall not be a part of the time limited for the commencement of action for
20 the enforcement of the payment of any such assessment, and such action may be brought at any
21 time within ten years from the date of the adoption of a resolution by the Council, determining
22 that such assessment shall be paid in accordance with the original resolution confirming it.

23 (c) Nothing herein shall be construed to revive any right of action that has heretofore
24 been barred by the statute of limitations.

25 "Section 6.93. - Abutting property outside city limits.

26 If any lots or parcels of land abutting any local improvements are located outside the city
27 limits, the Council may continue and delay the levy of assessments against such property until
28 the city limits are extended to include such property, or the Council may provide that no water
29 or sewer service connections shall be made to such property, pending the annexation thereof,
30 until all assessments thereon are paid. Upon annexation, if not paid prior thereto, the Council
31 may levy assessments for such local improvements against such property, and the procedure
32 therefor shall be the same as provided in this charter. Nothing contained in this section shall be
33 construed to prohibit or restrict the City Council and a property owner from entering into an
34 agreement for payment in lieu of assessment.

35 "CHAPTER VII. MISCELLANEOUS

36 "Section 7.01. Settlement of claims by City Manager. The City Manager shall have
37 authority to settle claims against the City as provided by ordinance."

38 **SECTION 2.** The purpose of this act is to revise the Charter of the City of
39 Burlington and to consolidate certain acts concerning the property, affairs, and government of
40 the City. It is intended to continue without interruption those provisions of prior acts that are
41 expressly consolidated into this act so that all rights and liabilities that have accrued are
42 preserved and may be enforced.

43 **SECTION 3.** This act does not repeal or affect any acts concerning the property,
44 affairs, or government of public schools or any acts validating official actions, proceedings,
45 contracts, or obligations of any kind.

46 **SECTION 4.** The following acts, having served the purposes for which they were
47 enacted or having been consolidated into this act, are expressly repealed:

- 48 (1) Chapter 119 of the 1961 Session Laws, Section 1 only.
- 49 (2) Chapter 765 of the 1961 Session Laws.
- 50 (3) Chapter 828 of the 1963 Session Laws.
- 51 (4) Chapter 400 of the 1967 Session Laws.

(5) Chapter 362 of the 1967 Session Laws.

(6) Chapter 479 of the 1967 Session Laws.

(7) Chapter 642 of the 1969 Session Laws.

(8) Chapter 679 of the 1979 Session Laws.

(9) S.L. 2005-30.

(10) S.L. 2010-25.

(11) S.L. 2010-53.

SECTION 5. This act does not repeal by implication any local acts otherwise applicable to the City of Burlington.

SECTION 6. The Mayor and City Council members serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified.

SECTION 7. This act does not affect any rights or interests that arose under any provisions repealed by this act.

SECTION 8. All existing ordinances, resolutions, and other provisions of the City of Burlington not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

SECTION 9. No action or proceeding pending on the effective date of this act by or against the City of Burlington or any of its departments or agencies shall be abated or otherwise affected by this act.

SECTION 10. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most clearly corresponds to the statutory provision that is superseded or recodified.

SECTION 11. This act is effective when it becomes law.